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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,471	08/19/2003	Yoshihiro Uchiumi	450100-04713	4086

7590 11/01/2007 FROMMER LAWRENCE & HAUG LLP 745 FIFTH AVENUE NEW YORK, NY 10151		EXAMINER CHIO, TAT CHI
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ART UNIT 2621	PAPER NUMBER
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MAIL DATE 11/01/2007	DELIVERY MODE PAPER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/643,471	Applicant(s) UCHIUMI ET AL.	
	Examiner Tat Chi Chio	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 22 August 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 8/22/2007 have been fully considered but they are not persuasive.

The applicant argues that Kato fails to teach or suggest recording means for recording the streaming data accumulated in the accumulating means in a unit recording area of the information recording medium when the amount of the streaming data accumulated in the accumulating means has reached a capacity of the unit recording area of the information recording medium, and when the boundary of the data sets is detected by the detecting means, regardless of the amount of the streaming data accumulated in the accumulating means until the total amount of data reaches the capacity of the unit recording area of the information recording medium, and recording resulting data in the unit recording area of the information recording medium, wherein boundary of each data set is recorded in a position coinciding with a cluster boundary, thereby, when the data set is deleted from the unit recording area of the information recording medium, all the padding data that was added is deleted and streaming data in a next unit recording area coinciding with a next data set remains.

In response, the examiner respectfully disagrees. Kato teaches recording means for recording the streaming data accumulated in the accumulating means in a unit recording area of the information recording medium when the amount of the streaming data accumulated in the accumulating means has reached a capacity of the unit recording area of the information recording medium, and, when the boundary of the

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data sets is detected by the detecting means, regardless of the amount of the streaming data accumulated in the accumulating means, adding padding data subsequently to the streaming data accumulated in the accumulating means until the total amount of data reaches the capacity of the unit recording area of the information recording medium, and recording resulting data in the unit recording area of the information recording medium (write section of Fig. 1, and col. 6, lines 45-67 and col. 7, lines 1-13), and Wherein the boundary of each data set is recorded in a position coinciding with a cluster boundary, thereby, when the data set is deleted from the unit recording area of the information recording medium, all the padding data that was added is deleted and streaming data in a next unit recording area coinciding with a next data set remains (Fig. 17A, Fig. 17B, and col. 11, lines 7-46).

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Kato (US 7,106,946 B1)

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

**Consider claims 1 and 4-6,** Kato teaches a recording apparatus for recording streaming data on an information recording medium, the recording apparatus comprising:

- detecting means for detecting a boundary between data sets that successively constitute the streaming data (stream analyzer of Fig. 1);
- accumulating means for accumulating the streaming data (stream analyzer of Fig. 1); and
- recording means for recording the streaming data accumulated in the accumulating means in a unit recording area of the information recording medium when the amount of the streaming data accumulated in the accumulating means has reached a capacity of the unit recording area of the information recording medium, and, when the boundary of the data sets is detected by the detecting means, regardless of the amount of the streaming data accumulated in the accumulating means, adding padding data subsequently to the streaming data accumulated in the accumulating means until the total

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amount of data reaches the capacity of the unit recording area of the information recording medium, and recording resulting data in the unit recording area of the information recording medium (write section of Fig. 1, and col. 6, lines 45-67 and col. 7, lines 1-13).

- Wherein the boundary of each data set is recorded in a position coinciding with a cluster boundary, thereby, when the data set is deleted from the unit recording area of the information recording medium, all the padding data that was added is deleted and streaming data in a next unit recording area coinciding with a next data set remains (Fig. 17A, Fig. 17B, and col. 11, lines 7-46)

**Consider claim 2,** Kato teaches a recording apparatus, wherein the streaming data is an MPEG stream and the data sets are groups of pictures (col. 7, lines 48-51).

**Consider claim 3,** Kato teaches a recording apparatus, wherein the unit recording area of the information recording medium is a cluster (col. 5, lines 49-63).

**Consider claims 7 and 10-12,** Kato, teaches a recording apparatus for recording streaming data on an information recording medium, the recording medium comprising:

- generating means for generating the streaming data by encoding an information signal based on a predetermined encoding scheme so that the data amount of data sets that successively constitute the streaming data will be an integer multiple of a capacity of a unit recording area of the

information recording medium (stream data base maker, file system, error correction section, and modulator of Fig. 1);

- recording means for recording the streaming data generated by the generating means on the information recording medium (write section of Fig. 1).
- wherein a boundary of a data set is recorded in a position coinciding with a cluster boundary, thereby, when the data set is deleted from the unit recording area of the information recording medium, all padding data that was added is deleted and streaming data in a next unit recording area coinciding with a next data set remains (Fig. 17A, Fig. 17B, and col. 11, lines 7-46).

**Consider claim 8**, Kato teaches a recording apparatus, wherein the information signal is a video signal, the streaming data is an MPEG stream, and the data sets are groups of pictures (col. 7, lines 48-51).

**Consider claim 9**, Kato teaches a recording apparatus, wherein the unit recording area of the information recording medium is a cluster (col. 5, lines 49-63).

### ***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

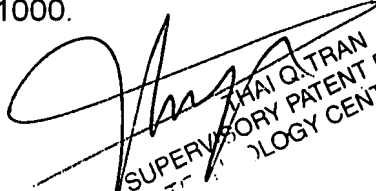
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tat Chi Chio whose telephone number is (571) 272-9563. The examiner can normally be reached on Monday - Thursday 8:30 AM-6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571)-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
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